



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

ENERGY

IN THE MATTER OF THE PETITION OF
ATLANTIC CITY ELECTRIC COMPANY FOR THE
RIGHT TO EXERCISE THE POWER OF EMINENT
DOMAIN PURSUANT TO N.J.S.A. 48:3-17.6

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CONDEMNATION
SCHEDULING
ORDER

DOCKET NO. EM04050350

(SERVICE LIST ATTACHED)

BY THE BOARD:¹

Atlantic City Electric Company ("Atlantic Electric", "Company" or "Petitioner") is a corporation of the State of New Jersey, and an electric utility as defined within Title 48 of the New Jersey Statutes and, as such, is subject to the jurisdiction of the New Jersey Board of Public Utilities ("Board"). On August 9, 2002, Atlantic Electric filed a Petition pursuant to N.J.S.A. 40:55D-19 requesting an order that the Zoning, Site Plan Review and all other Municipal Land Use Ordinances or Regulations promulgated under the auspices of Title 40 of the New Jersey Statutes and the Land Use Act of the State of New Jersey, as adopted by the Township of Egg Harbor, the Township of Galloway, the City of Port Republic within the County of Atlantic, and the Township of Bass River within the County of Burlington, and the Township of Little Egg Harbor, the Township of Eagleswood, the Township of Stafford, the Township of Barnegat, the Township of Ocean, and the Township of Lacey within the County of Ocean or by any of them, or of the respective counties, all in the State of New Jersey, shall not apply to either the siting of certain transmission line corridors or the construction and operation of a 230,000 volt ("230kV") transmission line all as more specifically described therein and as proposed to be constructed within and through a portion of said municipalities and counties; nor shall such Statute, Ordinances, Rules or Regulations promulgated thereunder be applied to the facilities and structures associated with and appurtenant to said transmission line. The Board, via an Order issued April 20, 2004, with a supplemental Order issued on April 23, 2004, made a number of findings, including the determination that the proposed facilities were reasonably necessary for the service, convenience and welfare of the public such that permission of the Board was granted.

On May 20, 2004, the Company filed with the Board a petition seeking to exercise the power of eminent domain, pursuant to N.J.S.A. 48:3-17.6, as to property owned by Palak Associates, LLC in Stafford Township, Ocean County, New Jersey. In addition, the Company asks the Board, under the discretion granted to it by N.J.A.C. 14:1-6.2(b), to shorten the period of time within which an answer shall be filed from the usual twenty (20) calendar days to ten (10) calendar days, based upon the importance of this construction project, the time-sensitive nature of the need, and the understanding that the only dispute between the Company and the property owner is over valuation, not need, which must be decided by a trial court following the

¹ Commissioner Jack Alter did not participate in the deliberation or the vote on this matter.

Board's hearing on this matter. Thus, claims the Company, the shortening of time in which to file an answer will not prejudice the property owner and will be in the public good. The property owner, however, has not consented to this shortening of time.

Under N.J.S.A. 48:3-17.7, the exercise of condemnation requires a petition to the Board, notice to all parties, and a hearing. Reducing the time for the property owner to file an answer in this matter would not change any of these procedural safeguards, and, in light of the time-sensitive nature of this project, and the understanding that the ultimate issue contested by the property owner is valuation, which may only be decided by the trial court following the Board's hearing, a reduction in time in which to file an answer under N.J.A.C. 14:1-6.2(b) is appropriate and in the public interest.

Based upon the foregoing, the Board HEREBY FINDS that a reduction in time in which an answer may be filed in this matter is in the public interest and therefore appropriate. As such, the Board HEREBY ORDERS that Palak Associates, LLC, or any of its successors in right title and interest, shall file an answer, if at all, no later than ten (10) calendar days following service, provided that, in all other aspects, the answer shall be as required by the rules.

Additionally, the Board HEREBY FINDS that additional petitions for condemnation may be necessary in relation to this transmission line project, and as to those matters, the procedural position should be similar if not the same as the current matter. Therefore, the Board HEREBY ORDERS that all condemnation matters associated with Docket No. EE02080521 are hereby covered by this Order, and that the provisions of N.J.A.C. 14:1-6.2 are hereby modified to require a ten (10) calendar day time limit for the filing of an answer. The Board FURTHER ORDERS that the Company shall notify the Board twenty-four (24) hours prior to any service seeking to implement this waiver to allow for the Board's objection and a determination, if necessary, that the waiver should not be allowed in a particular case. Finally, the Board FURTHER ORDERS that a copy of this Order shall be included with the documents the Company serves upon a property owner or interest holder in conjunction with a petition seeking to exercise the power of eminent domain in conjunction with Docket No. EE02080521.

DATED: **May 26, 2004**

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

FREDERICK F. BUTLER
COMMISSIONER

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

SIGNED

KRISTI IZZO
SECRETARY

**I/M/O the Petition of Atlantic City Electric Company for the Right to Exercise the Power of
Eminent Domain Pursuant to N.J.S.A. 48:3-17.6**

BPU DOCKET NO. EM04050350

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